

DAVE FREUDENTHAL
GOVERNOR



STATE CAPITOL
CHEYENNE, WY 82002

Office of the Governor

Received & Inspected

April 10, 2009

APR 14 2009

FCC Mail Room

The Honorable Gary Locke
Secretary, U.S. Department of Commerce
Office of the Secretary
US Department of Commerce
1401 Constitution Ave, N.W.
Washington, DC 20230

The Honorable Tom Vilsack
Secretary, U.S. Department of Agriculture
Office of the Secretary
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

The Honorable Anna Gomez
Acting Assistant Secretary,
Deputy Assistant Secretary
for Communications and Information,
Office of the Assistant Secretary, National
Telecommunications Information
Administration,
US Department of Commerce
1401 Constitution Ave, N.W.
Washington, DC 20230

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Secretary Vilsack, Secretary Locke, Assistant Secretary Gomez, and Ms. Dortch:

The American Recovery and Reinvestment Act of 2009 (ARRA) will have a significant impact on Wyoming. I am writing to you concerning the aspects of the ARRA focusing on broadband communications.

I am grateful for the opportunity to comment on the record on behalf of the citizens of my state with reasoned input. To ensure efficient use of stimulus funds is to rely, in part, on the States. It is my belief that we in Wyoming are in a good position to share our intimate knowledge of our communications environment, geography, and demographics in a responsible manner.

Wyoming is the least populated state with only 522,830 people in 2007. With an area of 98,210 square miles, that is fewer than 5.4 persons per square mile. Almost 45% of the population lives in the ten largest cities, none of which are dense urban areas. Wyoming has some smaller cities and towns, but visitors often find very small communities where railroads and highways intersect. Many Wyomingites live where they were born which could be an extended distance from the nearest town.

Fewer homes dispersed over large areas result in low local line density, which is a controlling factor in the economics of providing broadband in Wyoming. For example, Qwest's wire center in Lusk. Wyoming has a serving area nearly three times larger than the entire state of Rhode Island. However, the Lusk wire center has a local loop density of less than one access line

per square mile. By contrast, within the Washington, D.C. city limits there are approximately 10,000 access lines per square mile.

In this context, on March 17, 2009, my staff held a meeting together with the Chief Information Officer, the Chairman of the Public Service Commission, and over two dozen leaders in Wyoming's communications industry, to brainstorm the broadband steering committee's ideas for Wyoming's priorities for broadband communications stimulus funding. I am writing to report the following comments:

1. **Focus.** While some states have already listed thousands of proposals for broadband stimulus funded projects (many of them in "underserved areas"), Wyoming would like to be more focused. The wider committee and I believe that our priority is to focus on providing broadband to unserved areas.
2. **The state prefers not to be a grantee, but can assist with the selection process.** Based on what we now know, private entities are better positioned to use stimulus money swiftly and effectively, either independently or in partnership with local governments. The state is better positioned to identify overall priority projects with an accent on coordination rather than project selection; to validate representations made by individual applicants; and to provide an overall statewide context to NTIA and RUS for project proposals. I encourage NTIA to avoid a nationwide selection process which would favor state grantees to the detriment of private sector applicants.
3. **Mapping is complete.** Wyoming mapped its broadband capabilities in 2005. Since that time, the boundaries of unserved areas have not materially changed. Our study remains a good baseline. The Wyoming Telecommunications Association has supplemented this baseline with a depiction of Interoffice Fiber Facilities, completed this past week.
4. **Additional investment in backbone infrastructure facilities is critical.** It is the consensus of the broadband steering committee that a priority for broadband stimulus in Wyoming is to complete a statewide fiber network with redundant, self-healing network architecture capable of supporting a robust broadband environment. The broadband steering committee has identified several physical infrastructure gaps in this network that need to be addressed for the benefit of numerous entities and many of our citizens to provide modern broadband access and enable next generation, IP-enabled 911 and coordination, as well as electronic access to government, education, commerce, health, telework, and safety. This type of focus will encourage scalability and flexibility of projects. I would also like to mention that we are also working hard on developing stimulus projects for energy transmission corridors, including addressing the need for "smart grids." I do not need to tell you that the implementation of successful broadband deployment can leverage transmission and smart grid opportunities, including energy efficiency measures.
5. **Rights-of-way.** Unfortunately, one of the biggest impediments to addressing the need for transport infrastructure to support broadband is the great difficulty our providers have in gaining access to rights-of-way on federal and tribal lands.

Wyoming is about 57% public land, about 84% of which is federally controlled.¹ Expedited treatment of applications for right-of-way on federal and tribal land for broadband stimulus projects will be critical to making them “shovel ready.” I am also communicating this need directly to your colleague, Secretary of the Department of the Interior Salazar, and I would greatly appreciate your assistance and attention to these right-of-way issues (as well as concerning another State priority – energy transmission corridors).

6. **Special priorities.** There will likely be a small array of grant and loan proposals coming from Wyoming. However, the broadband steering committee has already identified several project proposals and we intend to specifically support these priority project applications.
7. **Income criteria.** As you know, there is an 80% limit on NTIA grants under the ARRA. Some of our communities have significant portions of their populations living below the poverty level.² For these communities, and for the service providers that will potentially serve them, to provide 20% matching funds would be virtually impossible, particularly in today’s economic conditions. I urge you as you go forward to keep other funding alternatives in mind and to waive the 20% requirement based on financial need as permitted by the ARRA, when a project is funded to enable service to an unserved area.
8. **Keep it simple.** Please do what you can to create a program that meets as many lofty goals as possible, including accountability and transparency. At the same time, I believe it is very important to craft relevant procedures and applications in a streamlined manner. I urge you to employ methods that are simple and easy to follow so that truly needy projects and proposers from Wyoming have an equal opportunity to participate. Ironically, this may mean, among other things, allowing for access to the process by persons who do not have broadband access readily available to download forms and file applications.
9. **Preference.** Finally, the broadband steering committee recognizes the statutory preference requiring RUS to prefer “borrowers or former borrowers,” but asks the RUS to minimize the effect of this preference where the only willing provider may be a small business. The emphasis at both RUS and NTIA should be on inclusiveness of all proposals. In that vein, I ask you understand how important it is that no single provider be put on the defensive by this process. For example, the choice of a definition of broadband that might set a specific minimum speed requirement could have a dampening effect on the success of the program for some rural areas of the country. We do not wish to undermine the value of competitive investments that have already been made in broadband infrastructure.

Wyoming wants a modern broadband network for the future that is scalable and flexible, but most importantly, Wyoming wants to be reasonable; we want broadband but not necessarily fiber to every ranch. For instance, the ideal outcome would be a resilient government and essential services transport layer that can serve counties, cities, towns, libraries, schools, and hospitals, and also provide for use of excess capacity to our communication industry partners.

¹ From data collected in “Equality State Almanac” page 4. <http://eadiv.state.wy.us/Almanac/ESA2008.pdf>

² *Id.* Page 12.

Our private partners could in turn provide broadband services to the underserved populations, and encourage the use of under-used facilities. I believe this outcome was what the Administration intended by way of stimulus support for education, health, efficient government and communities.

In summary, the State of Wyoming is ready to offer coordination, context, and communications support with the appropriate administrative funding provided by the broadband stimulus program. I respectfully urge each of you and your staffs to feel free to contact me or my staff, Rob Hurless, at (307) 777 – 8521 or rhurle@state.wy.us if you have questions. Thank you for your consideration.

Best regards,

A handwritten signature in black ink, appearing to read "Dave Freudenthal", with a large, stylized flourish at the end.

Dave Freudenthal
Governor

DF: RH:pjb

c: Commissioners of the FCC
Senator Mike Enzi
Senator John Barasso
Representative Cynthia Lummis
Ken Kuchno, Director, Broadband Division, Rural Utilities Service, USDA
Mark Seifert, Senior Advisor, NTIA
Dr. Bernadette McGuire-Rivera, Associate Administrator
Office of Telecommunications and Information Applications, NTIA
Michele Carey, NTIA, Advisor, NTIA
James McConnaughey, Senior Economist, Office of Policy Analysis & Development,
NTIA
Brad Ramsay, General Counsel, NARUC
Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402,
Washington, DC 20554